

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 43

HOUSE BILL 2202

AN ACT

AMENDING SECTION 49-371, ARIZONA REVISED STATUTES; RELATING TO LOCAL
STORMWATER QUALITY PROGRAMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-371, Arizona Revised Statutes, is amended to
3 read:

4 49-371. Local stormwater quality programs; authority;
5 limitations; fee; civil penalty; definition

6 A. A county that is required by the clean water act to obtain coverage
7 under a national or state pollutant discharge elimination system stormwater
8 program may do all of the following:

9 1. Develop and implement stormwater pollution prevention plans and
10 stormwater management programs as prescribed by the clean water act.

11 2. Adopt, amend, repeal and implement any ordinances, rules or
12 regulations necessary to comply with the minimum requirements of the clean
13 water act, including the imposition and collection of fees for issuing and
14 administering permits, reviewing plans and conducting inspections. Any fees
15 imposed pursuant to this section shall not exceed the reasonable costs of the
16 county to issue and administer permits, review plans and conduct inspections.
17 Fees collected pursuant to this section may not be used to fund stormwater
18 infrastructure costs.

19 3. Adopt rules, regulations or ordinances regulating the use of lands
20 or rights-of-way owned or leased by the county as may be necessary to
21 implement and enforce its national or state pollutant discharge elimination
22 system stormwater management program. Rules, regulations or ordinances
23 adopted pursuant to this paragraph may include provisions for both of the
24 following:

25 (a) Establishment and enforcement of a county permit program,
26 including conditions for the review, issuance, revision, renewal, revocation,
27 administration and enforcement of a permit.

28 (b) Establishment of fees for the use of lands or rights-of-way and
29 the discharge of stormwater or other waters onto or across those lands or
30 rights-of-way pursuant to a permit.

31 4. Enforce the ordinances, rules or regulations adopted pursuant to
32 this section consistent with section 49-372.

33 5. Seek a civil penalty of not more than two thousand five hundred
34 dollars for each violation. Each day of a violation constitutes a separate
35 offense.

36 B. An ordinance, rule or regulation adopted pursuant to this section,
37 or a stormwater management program developed and implemented by a county
38 pursuant to this section, shall not be more stringent than or conflict with
39 any requirement of the clean water act.

40 C. A county that operates a regulated small municipal separate storm
41 sewer system shall conduct its pollutant discharge elimination system
42 stormwater management program and shall limit the application of any
43 ordinance, rule or regulation as follows:

1 1. In urbanized areas as ~~defined~~ DESCRIBED in 40 Code of Federal
2 Regulations section 122.32 as necessary to meet the requirements of 40 Code
3 of Federal Regulations section 122.34(b)(3).

4 2. As necessary to meet the requirements of public education and
5 outreach, public involvement and participation as provided by the clean water
6 act.

7 D. For the purposes of this section and except as required by the
8 clean water act, a county may not require a permit from any person with a
9 federal or state ~~pollution~~ POLLUTANT discharge elimination system permit
10 regulating the same activity at the same location.

11 E. For the purposes of this section and except as required by 40 Code
12 of Federal Regulations section 122.34, a county may not regulate any person
13 or activity exempt under 33 United States Code section 1342(1), 40 Code of
14 Federal Regulations section 122.3 or Arizona administrative code
15 ~~18-9-1-902(G)~~ 18-9-A902(G).

16 F. For the purposes of adopting an ordinance, rule or regulation
17 pursuant to this section, a county shall use the definitions prescribed in
18 section 49-255.

19 G. Fees received by a county pursuant to an ordinance or rule adopted
20 pursuant to this article shall be deposited with the county for use in
21 administering the programs or plans developed and implemented pursuant to
22 this section.

23 H. Before adopting any ordinance, rule or regulation pursuant to this
24 section, a county shall file with the secretary of state a written statement
25 including a summary of the proposed rule, ordinance or other regulation. The
26 summary shall provide the name of the person with the county to contact with
27 questions or comments. The secretary of state shall publish the written
28 statement in the next issue of the Arizona administrative register at no cost
29 to the county. The county shall make the text of the rule, ordinance or
30 other regulation available to the public at the same time it files the
31 written summary of the rule, ordinance or other regulation with the secretary
32 of state as provided in this subsection. The county shall also comply with
33 the requirements of section 49-112, subsection D, paragraphs 2, 3 and 4.

34 I. For the purposes of this article, "county" means a county that
35 operates a regulated small municipal separate stormwater system pursuant to
36 40 Code of Federal Regulations section 122.32.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.